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REMARKS

Turning to paragraph 1 of the Office Action mailed January 25, 2005, the Examiner has made a restriction requirement requiring Applicants to elect one of the following four groups of claims: I (those claims "drawn to a system with an attachment member and carrier/baffle securing an imager board within  $\pm 5$  degrees of a desired optical axis, classified in class 250, subclass 239"); II (those claims "drawn to a system with an attachment member and a carrier defining an optical axis, classified in class 362, subclass 464"); III (those claims "drawn to a system with a mechanical image sensor repositioning means allowing automatic/manual image sensor alignment, classified in class 250, subclass 234") and IV (those claims "drawn to a system with an attachment member and carrier/baffle securing an imager board within  $\pm 5$  degrees of a desired optical axis, and a mechanical image sensor repositioning means allowing automatic/manual image sensor alignment, classified in class 250, subclass 239").

Applicants respectfully elect, with traverse, group I (claims 1-7 and 20-23), which includes claims corresponding to an automatic vehicle exterior light control system, comprising: an attachment member and carrier configured to secure an imager board within approximately 5 degrees and approximately -5 degrees of a desired image sensor optical axis.

Applicants respectfully submit that claims 1-23 are all directed to an automatic vehicle exterior light control, comprising: an attachment member and a carrier that cooperate to define an image sensor optical axis or a mechanical image sensor repositioning means that allows automatic and, or, manual image sensor alignment. The

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Applicants feel that it is a mischaracterization of the claim set to read out these ~~common features~~ limitations.

Applicants further submit that the requirement is otherwise improper and should be withdrawn. MPEP §806.05 sets forth the requirements for making a proper restriction based on related inventions.

Turning to paragraphs 2-7 of the Office Action, the Examiner has specifically relied upon MPEP §806.05(c) and (d) as providing a valid basis for restriction. MPEP §806.05(c) provides a specific example that Applicants feel is pertinent when the pending claims are read with regard to the above mentioned common features:

To support a requirement for restriction, both **two way distinctness** and reasons for insisting on restriction are necessary, i.e. separate classification, status, or field of search. See MPEP §808.02.

## II. SUBCOMBINATION ESSENTIAL TO COMBINATION

### AB<sub>sp</sub>/B<sub>sp</sub> No Restriction

If there is no evidence that combination AB<sub>sp</sub> is patentable without the details of B<sub>sp</sub>, restriction should not be required. Where the relationship between the claims is such that the separately claimed subcombination B<sub>sp</sub> constitutes the essential distinguishing feature of the combination AB<sub>sp</sub> as claimed, the inventions are not distinct and a requirement for restriction must not be made, even though the subcombination has separate utility.

In light of the above, the Applicants request that the Examiner reconsider the restriction requirement and regroup claims 1-23 and proceed to examination on the merits. Secondarily, the Applicants would request that the Examiner consider regrouping of claims 1-7, 17-19 and 20-23. Claims 1-7, 17-19 and 20-23 have a

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common feature in addition to those mentioned above in that all claims recite a mechanism configured to secure an imager board within approximately 5 degrees and approximately -5 degrees of a desired image sensor optical axis. Additionally, the Examiner has indicated that Claims 1-7, 17-19 and 20-23 are all classified in class 250, subclass 239.

Therefore, the Applicants respectfully submit that the pending claims do not define related inventions in the meaning of MPEP §806.05. All of the pending claims recite open claim language due to the presence of the transitional phrase "comprising," and thus the components of the structure shown and described in the applications do not constitute **two way distinctness**. One would not have to be implemented to the exclusion of the other.

For the reasons stated above, Applicant submits that the requirement for election of related inventions as stated in the Office Action is improper and should be withdrawn. The Applicant, therefore, requests that the Examiner withdraw the requirement for election of related inventions and proceed to examine claims 1-23. Please contact the undersigned should there be any questions.

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GENTEX HR-LEGAL

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By: Gentex Corporation

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Date

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